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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10.001,389	10.23.2001	Charles K. Wike JR.	9423	1315

26884 7590 06.04.2003

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EXAMINER

LE, UYEN CHAU N

ART UNIT PAPER NUMBER

2876

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001,389

Applicant(s)

WIKE ET AL.

Examiner

Uyen-Chau N. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of its minor informalities.
Re abstract, line 5: Substitute "SCOT" with -- self-service checkout terminal (SCOT) --.
Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 1-4, 6-8, 13, 15 and 20 are objected to because of the following informalities:
Re claim 1, line 7: Substitute "it is determined" with -- determining --.
Re claim 2, line 1: Substitute "an item" with -- the item --.
Re claim 3, line 2: Substitute "an electronic article surveillance detector" with -- the electronic article surveillance detector --.
Re claim 4, line 3: Substitute "it is determined" with -- determining --.
Re claim 4, line 4: Substitute "an electronic article surveillance tag" with -- the electronic article surveillance tag --.
Re claim 6, line 2: Substitute "a second electronic article surveillance detector" with -- the second electronic article surveillance detector --.
Re claim 7, line 2: Substitute "a second electronic article surveillance detector" with -- the second electronic article surveillance detector --.
Re claim 8, line 6: Substitute "it is determined" with -- determining --.
Re claim 8, line 7: Substitute "an active electronic article surveillance tag" with -- the active electronic article surveillance tag --.

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Re claim 13, line 3: Substitute "an active electronic article surveillance tag" with -- the active electronic article surveillance tag --.

Re claim 15, line 7: Substitute "memory" with -- a memory --.

Re claim 15, line 12: Substitute "it is determined" with -- determining --.

Re claim 20, line 5: Substitute "an active electronic article surveillance tag" with -- the active electronic article surveillance tag --.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 1-4, 8-9 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al (US 5,594,228) in view of Bergman et al (US 5,469,142).

Re claims 1-4, 8-9 and 15-16: Swartz et al discloses a system and method of operating of a self-checkout terminal comprising a scanner [10, 144] for scanning a tag 101 having a barcode symbol 103 of an item [102, 120]; an electronic article surveillance deactivator 100 operative to deactivate an active surveillance tag 126; a processor/microcomputer 164, having a memory for storing a database and program instructions, in communication with the scanner 144, causing the processor/microcomputer 164 to scan the item 120 for purchase via the scanner 144 and deactivate the active electronic article surveillance tag 126 (figs. 1 and 7a-9b; col. 10, line 29 through col. 12, line 10 and col. 18, line 4 through col. 21, line 17).

Swartz et al fails to teach or fairly suggest that the system further comprising an electronic article surveillance detector operative to detect whether a scanned item has an active electronic article surveillance tag, wherein the electronic article surveillance detector is associated with the scanner.

Bergman et al teaches an electronic article surveillance detector for determining whether an active electronic article surveillance tag is present at the checkout station (figs. 3-4b; col. 3, line 5 through col. 5, line 6).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate an electronic article surveillance detector as taught by Bergman et al into the teachings of Swartz et al in order to provide Swartz et al with a more advanced and power consumption system wherein the electronic article surveillance deactivator is only energized/operated only when an electronic article surveillance tag is detected or the purchased item has an active electronic article surveillance tag. Furthermore, such modification would have been

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an obvious extension, well within the ordinary skill in the art, as taught by Swartz et al, and therefore an obvious expedient.

4. Claims 5-7, 10-12 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al as modified by Bergman et al as applied to claims 1, 8 and 15 above, and further in view of Bellis Jr. et al (US 2002/0,096,564A1). The teachings of Swartz et al as modified by Bergman et al have been discussed above.

Re claims 5-7, 10-12 and 17-19: Swartz et al/Bergman et al has been discussed above but fails to teach or fairly suggest that the system further comprising a second electronic article surveillance detector associated with a bagwell/security scale of the self-checkout and is operative to determine whether the electronic article surveillance tag has been deactivated by the electronic article surveillance deactivator.

Bellis Jr. et al teaches a bagging station 270 including an electronic article surveillance monitor 300 for detecting the presence of an active electronic article surveillance tag and a security scale 290 (page 2, paragraph [0020]; page 4, paragraph [0042] through page 5, paragraph [0059]).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate an electronic article surveillance detector associated with the bagwell/security scale as taught by Bellis Jr. et al into the teachings of Swartz et al/Bergman et al in order to provide Swartz et al/Bergman et al with a more secure system wherein the electronic article surveillance tag is detected and/or deactivated more than once during the checkout process. Furthermore, such modification would provide a more user friendly system wherein the customer does not have to concern about carrying an item having an active electronic surveillance tag out of the store, which may cause an alarm system to go on when he/she is passing across the door/security gate, and therefore an obvious expedient.

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5. Claims 13-14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al as modified by Bergman et al as applied to claims 8 and 15 above, and further in view of Garber et al (US 6,486,780 B1). The teachings of Swartz et al as modified by Bergman et al have been discussed above.

Re claims 13-14 and 20: Swartz et al/Bergman et al has been discussed above but fails to teach or fairly suggest that the electronic article surveillance detector comprising a coil and electronic circuitry/logic that is operative to obtain a signal from the coil indicative of the active electronic article surveillance tag.

Garber et al teaches an electronic article surveillance detector system comprising a coil/an antenna 104, a circuitry/an interrogation source 102 and a detector 106 for obtaining a signal from the coil indicative of the active electronic article surveillance tag (col. 7, lines 3+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the teachings of Garber et al into the teachings of Swartz et al/Bergman et al for a more accurate detecting system. Furthermore, such modification would have been an obvious engineering design variation, well within the ordinary skill in the art, and therefore an obvious extension.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Mason (US 6,497,361); Kahn et al (US 6,158,662); Pinneo (US 4,574,274); Loof (US 6,507,279); Zhou et al (US 5,029,291); Kahn et al (US 5,059,951); Zhou et al (US

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5,126,720); Zschirnt (US 5,705,986); Bellis Jr. et al (US 2003/0,018,897); Kaltner (US 4,728,938); Swartz et al (US 6,102,290); Canipe et al (US 6,281,796); Kahn et al (US 6,234,394); Welsh et al (US 4,063,229); Ghaffari et al (US 6,169,483); Swartz et al (US 5,814,799); Mason (EP 0,994,447 A2) are cited as of interest and illustrate a similar structure to an automatic electronic article surveillance for self-checkout.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 703-306-5588. The examiner can normally be reached on SUN, M, W, F 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Uyen-Chau Ngo Le

May 30, 2003


KARL D. FRECH
PRIMARY EXAMINER